

105TH CONGRESS
2D SESSION

H. R. 4005

[Report No. 105-]

To amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1998

Mr. LEACH (for himself, Mr. BEREUTER, Mr. CASTLE, Mr. BACHUS, Mrs. ROUKEMA, Mr. BAKER, Mr. LAFALCE, Mr. KANJORSKI, Mr. HINCHEY, Ms. WATERS, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE , 1998

Reported from the Committee on Banking and Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 5, 1998]

A BILL

To amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Money Laundering De-*
3 *terrence Act of 1998”.*

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) *FINDINGS.—The Congress finds as follows:*

6 (1) *The dollar amount involved in international*
7 *money laundering likely exceeds \$500,000,000,000 an-*
8 *nually.*

9 (2) *Organized crime groups are continually de-*
10 *vising new methods to launder the proceeds of illegal*
11 *activities in an effort to subvert the transaction re-*
12 *porting requirements of subchapter II of chapter 53 of*
13 *title 31, United States Code, and chapter 2 of Public*
14 *Law 91–508.*

15 (3) *A number of methods to launder the proceeds*
16 *of criminal activity were identified and described in*
17 *congressional hearings, including the use of financial*
18 *service providers which are not depository institu-*
19 *tions, such as money transmitters and check cashing*
20 *services, the purchase and resale of durable goods, and*
21 *the exchange of foreign currency in the so-called*
22 *“black market”.*

23 (4) *Recent successes in combating domestic*
24 *money laundering have involved the application of*
25 *the heretofore seldom-used authority granted to the*

1 *Secretary of the Treasury and the cooperative efforts*
2 *of Federal, State, and local law enforcement agencies.*

3 (5) *Such successes have been exemplified by the*
4 *implementation of the geographic targeting order in*
5 *New York City and through the work of the El*
6 *Dorado task force, a group comprised of agents of De-*
7 *partment of the Treasury law enforcement agencies,*
8 *New York State troopers, and New York City police*
9 *officers.*

10 (6) *Money laundering by international criminal*
11 *enterprises challenges the legitimate authority of na-*
12 *tional governments, corrupts government institutions,*
13 *endangers the financial and economic stability of na-*
14 *tions, and routinely violates legal norms, property*
15 *rights, and human rights. In some countries, such as*
16 *Columbia, Mexico, and Russia, the wealth and power*
17 *of organized criminal enterprises rivals their own*
18 *government's.*

19 (7) *The structure of international criminal en-*
20 *terprises engaged in money laundering is complex, di-*
21 *verse, and fragmented. Organized criminal enterprises*
22 *such as the Colombian and Mexican cartels, the Rus-*
23 *sian "mafia", Sicilian crime families, and Chinese*
24 *gangs are highly resistant to conventional law en-*
25 *forcement techniques. Their financial management*

1 *and organizational infrastructure are highly sophisti-*
2 *cated and difficult to track because of the*
3 *globalization of the financial service industry.*

4 *(b) PURPOSES.—The purposes of this Act are as fol-*
5 *lows:*

6 *(1) To amend subchapter II of chapter 53 of title*
7 *31, United States Code, to provide the law enforce-*
8 *ment community with the necessary legal authority to*
9 *combat money laundering.*

10 *(2) To broaden the law enforcement community's*
11 *access to transactional information already being col-*
12 *lected which relate to coins and currency received in*
13 *a nonfinancial trade or business.*

14 *(3) To expedite the issuance by the Secretary of*
15 *the Treasury of regulations designed to deter money*
16 *laundering activities at certain types of financial in-*
17 *stitutions.*

18 **SEC. 3. AMENDMENTS RELATING TO REPORTING OF SUS-**
19 **PICIOUS ACTIVITIES.**

20 *(a) AMENDMENT RELATING TO CIVIL LIABILITY IMMUN-*
21 *ITY FOR DISCLOSURES.—Section 5318(g)(3) of title 31,*
22 *United States Code, is amended to read as follows:*

23 *“(3) LIABILITY FOR DISCLOSURES.—*

24 *“(A) IN GENERAL.—Notwithstanding any*
25 *other provision of law—*

1 “(i) *any financial institution that—*

2 “(I) *makes a disclosure of any*
3 *possible violation of law or regulation*
4 *to an appropriate government agency;*
5 *or*

6 “(II) *makes a disclosure pursuant*
7 *to this subsection or any other author-*
8 *ity;*

9 “(ii) *any director, officer, employee, or*
10 *agent of such institution who makes, or re-*
11 *quires another to make any such disclosure;*
12 *and*

13 “(iii) *any independent public account-*
14 *ant who audits any such financial institu-*
15 *tion and makes a disclosure described in*
16 *clause (i),*

17 *shall not be liable to any person under any law*
18 *or regulation of the United States, any constitu-*
19 *tion, law, or regulation of any State or political*
20 *subdivision thereof, or under any contract or*
21 *other legally enforceable agreement (including*
22 *any arbitration agreement), for such disclosure*
23 *or for any failure to notify the person who is the*
24 *subject of such disclosure or any other person*
25 *identified in the disclosure.*

1 “(B) *EXCEPTION.*—Subparagraph (A) shall
2 *not apply to a disclosure or communication re-*
3 *quired under Federal securities law, other than*
4 *provisions of law that specifically refer to the*
5 *Currency and Foreign Transactions Reporting*
6 *Act of 1970.”.*

7 (b) *PROHIBITION ON NOTIFICATION OF DISCLO-*
8 *SURES.*—Section 5318(g)(2) of title 31, United States Code,
9 *is amended to read as follows:*

10 “(2) *NOTIFICATION PROHIBITED.*—

11 “(A) *IN GENERAL.*—If a financial institu-
12 *tion, any director, officer, employee, or agent of*
13 *any financial institution, or any independent*
14 *public accountant who audits any financial in-*
15 *stitution, voluntarily or pursuant to this section*
16 *or any other authority, reports a suspicious*
17 *transaction to an appropriate government agen-*
18 *cy—*

19 “(i) *the financial institution, director,*
20 *officer, employee, agent, or accountant may*
21 *not notify any person involved in the trans-*
22 *action that the transaction has been re-*
23 *ported and may not disclose any informa-*
24 *tion included in the report to any such per-*
25 *son; and*

1 “(ii) any other person, including any
2 officer or employee of any government, who
3 has any knowledge that such report was
4 made may not disclose to any person in-
5 volved in the transaction that the trans-
6 action has been reported or any information
7 included in the report.

8 “(B) COORDINATION WITH PARAGRAPH
9 (5).—Subparagraph (A) shall not be construed as
10 prohibiting any financial institution, or any di-
11 rector, officer, employee, or agent of such institu-
12 tion, from including, in a written employment
13 reference that is provided in accordance with
14 paragraph (5) in response to a request from an-
15 other financial institution, information that was
16 included in a report to which subparagraph (A)
17 applies, but such written employment reference
18 may not disclose that such information was also
19 included in any such report or that such report
20 was made.”.

21 (c) AUTHORIZATION TO INCLUDE SUSPICIONS OF IL-
22 LEGAL ACTIVITY IN EMPLOYMENT REFERENCES.—Section
23 5318(g) of title 31, United States Code, is amended by add-
24 ing at the end the following new paragraph:

1 “(5) *EMPLOYMENT REFERENCES MAY INCLUDE*
2 *SUSPICIONS OF INVOLVEMENT IN ILLEGAL ACTIVITY.—*

3 “(A) *IN GENERAL.—Notwithstanding any*
4 *other provision of law and subject to subpara-*
5 *graph (B) of this paragraph and paragraph*
6 *(2)(C), any financial institution, and any direc-*
7 *tor, officer, employee, or agent of such institu-*
8 *tion, may disclose, in any written employment*
9 *reference relating to a current or former institu-*
10 *tion-affiliated party of such institution which is*
11 *provided to another financial institution in re-*
12 *sponse to a request from such other institution,*
13 *information concerning the possible involvement*
14 *of such institution-affiliated party in any sus-*
15 *picious transaction relevant to a possible viola-*
16 *tion of law or regulation.*

17 “(B) *LIMIT ON LIABILITY FOR DISCLO-*
18 *SURES.—A financial institution, and any direc-*
19 *tor, officer, employee, or agent of such institu-*
20 *tion, shall not be liable to any person under any*
21 *law or regulation of the United States, any con-*
22 *stitution, law, or regulation of any State or po-*
23 *litical subdivision thereof, or under any contract*
24 *or other legally enforceable agreement (including*

1 *any arbitration agreement), for any disclosure*
2 *under subparagraph (A), to the extent—*

3 “(i) *the disclosure does not contain in-*
4 *formation which the institution, director,*
5 *officer, employee, agent, or accountant*
6 *knows to be false; and*

7 “(ii) *the institution, director, officer,*
8 *employee, agent, or accountant has not*
9 *acted with malice or with reckless disregard*
10 *for the truth in making the disclosure.*

11 “(C) *INSTITUTION-AFFILIATED PARTY DE-*
12 *FINED.—For purposes of this paragraph, the*
13 *term ‘institution-affiliated party’ has the mean-*
14 *ing given to such term in section 3(u) of the Fed-*
15 *eral Deposit Insurance Act, except such section*
16 *3(u) shall be applied by substituting ‘financial*
17 *institution’ for ‘insured depository institution’.*”.

18 (d) *AMENDMENTS RELATING TO AVAILABILITY OF*
19 *SUSPICIOUS ACTIVITY REPORTS FOR OTHER AGENCIES.—*
20 *Section 5319 of title 31, United States Code, is amended—*

21 (1) *in the 1st sentence, by striking “5314, or*
22 *5316” and inserting “5313A, 5314, 5316, or*
23 *5318(g)”;*

1 (2) *in the last sentence, by inserting “under sec-*
2 *tion 5313, 5313A, 5314, 5316, or 5318(g)” after*
3 *“records of reports”; and*

4 (3) *by adding the following new sentence after*
5 *the last sentence: “The Secretary of the Treasury may*
6 *permit the dissemination of information in any such*
7 *reports to any self-regulatory organization (as defined*
8 *in section 3(a)(26) of the Securities Exchange Act of*
9 *1934), if the Securities and Exchange Commission de-*
10 *termines that such dissemination is necessary or ap-*
11 *propriate to permit such organization to perform its*
12 *function under the Securities Exchange Act of 1934*
13 *and regulations prescribed under such Act.”.*

14 **SEC. 4. EXPANSION OF SCOPE OF SUMMONS POWER.**

15 *Section 5318(b)(1) of title 31, United States Code, is*
16 *amended by inserting “examinations to determine compli-*
17 *ance with the requirements of this subchapter, section 21*
18 *of the Federal Deposit Insurance Act, and chapter 2 of Pub-*
19 *lic Law 91–508 and regulations prescribed pursuant to*
20 *such provisions, investigations relating to reports filed by*
21 *financial institutions or other persons pursuant to any such*
22 *provision or regulation, and” after “in connection with”.*

1 **SEC. 5. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC TAR-**
2 **GETING ORDERS AND CERTAIN RECORD-**
3 **KEEPING REQUIREMENTS.**

4 (a) *CIVIL PENALTY FOR VIOLATION OF TARGETING*
5 *ORDER OR CERTAIN RECORDKEEPING REQUIREMENTS.—*
6 *Section 5321(a)(1) of title 31, United States Code, is*
7 *amended—*

8 (1) *by inserting “or order issued” after “regula-*
9 *tion prescribed” the 1st place it appears; and*

10 (2) *by inserting “, or willfully violating a regu-*
11 *lation prescribed under section 21 of the Federal De-*
12 *posit Insurance Act or under section 123 of Public*
13 *Law 91–508,” before “is liable”.*

14 (b) *CRIMINAL PENALTIES FOR VIOLATION OF TARGET-*
15 *ING ORDER OR CERTAIN RECORDKEEPING REQUIRE-*
16 *MENTS.—Section 5322 of title 31, United States Code, is*
17 *amended—*

18 (1) *in each of subsections (a) and (b), by insert-*
19 *ing “or order issued” after “regulation prescribed”*
20 *the 1st place it appears;*

21 (2) *in subsection (a), by inserting “, or willfully*
22 *violating a regulation prescribed under section 21 of*
23 *the Federal Deposit Insurance Act or under section*
24 *123 of Public Law 91–508,” before “shall”; and*

25 (3) *in subsection (b), by inserting “or willfully*
26 *violating a regulation prescribed under section 21 of*

1 *the Federal Deposit Insurance Act or under section*
2 *123 of Public Law 91–508,” before “while violating”.*

3 (c) *STRUCTURING TRANSACTIONS TO EVADE TARGET-*
4 *ING ORDER OR CERTAIN RECORDKEEPING REQUIRE-*
5 *MENTS.—Section 5324(a) of title 31, United States Code,*
6 *is amended—*

7 (1) *in the portion of such section which precedes*
8 *paragraph (1), by inserting “, the reporting require-*
9 *ments imposed by any order issued under section*
10 *5326, or the recordkeeping requirements imposed by*
11 *any regulation prescribed under section 21 of the Fed-*
12 *eral Deposit Insurance Act or section 123 of Public*
13 *Law 91–508” after “regulation prescribed under any*
14 *such section”; and*

15 (2) *in paragraphs (1) and (2), by inserting “, to*
16 *file a report required by any order issued under sec-*
17 *tion 5326, or to maintain a record required pursuant*
18 *to any regulation prescribed under section 21 of the*
19 *Federal Deposit Insurance Act or section 123 of Pub-*
20 *lic Law 91–508” after “regulation prescribed under*
21 *any such section” where such term appears in each*
22 *such paragraph.*

23 (d) *INCREASE IN CIVIL PENALTIES FOR VIOLATION OF*
24 *CERTAIN RECORDKEEPING REQUIREMENTS.—*

1 (1) *FEDERAL DEPOSIT INSURANCE ACT.*—Section
2 21(j)(1) of the *Federal Deposit Insurance Act* (12
3 U.S.C. 1829b(j)(1)) is amended by striking “\$10,000”
4 and inserting “the greater of the amount (not to ex-
5 ceed \$100,000) involved in the transaction (if any)
6 with respect to which the violation occurred or
7 \$25,000”.

8 (2) *PUBLIC LAW 91–508.*—Section 125(a) of
9 Public Law 91–508 (12 U.S.C. 1955(a)) is amended
10 by striking “\$10,000” and inserting “the greater of
11 the amount (not to exceed \$100,000) involved in the
12 transaction (if any) with respect to which the viola-
13 tion occurred or \$25,000”.

14 (e) *CRIMINAL PENALTIES FOR VIOLATION OF CERTAIN*
15 *RECORDKEEPING REQUIREMENTS.*—

16 (1) *SECTION 126.*—Section 126 of Public Law
17 91–508 (12 U.S.C. 1956) is amended to read as fol-
18 lows:

19 **“§ 126. Criminal penalty**

20 “A person willfully violating this chapter, section 21
21 of the *Federal Deposit Insurance Act*, or a regulation pre-
22 scribed under this chapter or such section, shall be fined
23 not more than \$250,000, or imprisoned for not more than
24 five years, or both.”.

1 (2) *SECTION 127.—Section 127 of Public Law*
2 *91–508 (12 U.S.C. 1957) is amended to read as fol-*
3 *lows:*

4 ***“§ 127. Additional criminal penalty in certain cases***

5 *“A person willfully violating this chapter, section 21*
6 *of the Federal Deposit Insurance Act, or a regulation pre-*
7 *scribed under this chapter or such section, while violating*
8 *another law of the United States or as part of a pattern*
9 *of any illegal activity involving more than \$100,000 in a*
10 *12-month period, shall be fined not more than \$500,000,*
11 *imprisoned for not more than 10 years, or both.”.*

12 ***SEC. 6. REPEAL OF CERTAIN REPORTING REQUIREMENTS.***

13 *Section 407(d) of the Money Laundering Suppression*
14 *Act of 1994 (31 U.S.C. 5311 note) is amended by striking*
15 *“subsection (c)” and inserting “subsection (c)(2)”.*

16 ***SEC. 7. LIMITED EXEMPTION FROM PAPERWORK REDUC-***
17 ***TION ACT.***

18 *Section 3518(c)(1) of title 44, United States Code, is*
19 *amended—*

20 (1) *by redesignating subparagraphs (C) and (D)*
21 *as subparagraphs (D) and (E), respectively; and*

22 (2) *by inserting after subparagraph (B) the fol-*
23 *lowing new subparagraph:*

1 “(C) pursuant to regulations prescribed or orders
2 issued by the Secretary of the Treasury under section
3 5318(h) or 5326 of title 31;”.

4 **SEC. 8. TRANSFER OF REPORTING REQUIREMENTS FROM**
5 **SECTION 6050I OF THE INTERNAL REVENUE**
6 **CODE OF 1986 TO TITLE 31, UNITED STATES**
7 **CODE.**

8 (a) *REENACTMENT OF SECTION 6050I.*—Subchapter II
9 of chapter 53 of title 31, United States Code, is amended
10 by inserting after section 5313 the following new section:

11 **“§5313A. Reports relating to coins and currency re-**
12 **ceived in nonfinancial trade or business**

13 “(a) *COIN AND CURRENCY RECEIPTS OF MORE THAN*
14 \$10,000.—Any person—

15 “(1) *who is engaged in a trade or business; and*

16 “(2) *who, in the course of such trade or business,*
17 *receives more than \$10,000 in coins or currency in 1*
18 *transaction (or 2 or more related transactions),*

19 *shall file a report described in subsection (b) with respect*
20 *to such transaction (or related transactions) at such time*
21 *as the Secretary may by regulations prescribe.*

22 “(b) *FORM AND MANNER OF REPORTS.*—A report is
23 *described in this subsection if such report—*

24 “(1) *is in such form as the Secretary may pre-*
25 *scribe;*

1 “(2) *contains—*

2 “(A) *the name, address, and taxpayer iden-*
3 *tification number of the person from whom the*
4 *coins or currency was received;*

5 “(B) *the amount of coins or currency re-*
6 *ceived;*

7 “(C) *the date and nature of the transaction;*
8 *and*

9 “(D) *such other information as the Sec-*
10 *retary may prescribe.*

11 “(c) *EXCEPTIONS.—*

12 “(1) *AMOUNTS RECEIVED BY FINANCIAL INSTITU-*
13 *TIONS.—Subsection (a) shall not apply to amounts*
14 *received in a transaction reported under section 5313*
15 *and regulations prescribed under such section.*

16 “(2) *TRANSACTIONS OCCURRING OUTSIDE THE*
17 *UNITED STATES.—Except to the extent provided in*
18 *regulations prescribed by the Secretary, subsection (a)*
19 *shall not apply to any transaction if the entire trans-*
20 *action occurs outside the United States.*

21 “(d) *CURRENCY INCLUDES FOREIGN CURRENCY AND*
22 *CERTAIN MONETARY INSTRUMENTS.—*

23 “(1) *IN GENERAL.—For purposes of this section,*
24 *the term ‘currency’ includes—*

25 “(A) *foreign currency; and*

1 “(B) to the extent provided in regulations
2 prescribed by the Secretary, any monetary in-
3 strument (whether or not in bearer form) with a
4 face amount of not more than \$10,000.

5 “(2) SCOPE OF APPLICATION.—Paragraph (1)(B)
6 shall not apply to any check drawn on the account
7 of the writer in a financial institution referred to in
8 subparagraph (A), (B), (C), (D), (E), (F), (G), (J),
9 (K), (R), or (S) of section 5312(a)(2).

10 “(e) COINS OR CURRENCY RECEIVED BY CRIMINAL
11 COURT CLERKS.—

12 “(1) IN GENERAL.—Every clerk of a Federal or
13 State criminal court who receives more than \$10,000
14 in coins or currency as bail for any individual
15 charged with a specified criminal offense shall file a
16 report described in paragraph (2) (at such time as the
17 Secretary may by regulations prescribe) with respect
18 to the receipt of such bail.

19 “(2) REPORT.—A report is described in this
20 paragraph if such report—

21 “(A) is in such form as the Secretary may
22 prescribe; and

23 “(B) contains—

24 “(i) the name, address, and taxpayer
25 identification number of—

1 “(I) the individual charged with
2 the specified criminal offense; and

3 “(II) each person posting the bail
4 (other than a person licensed as a bail
5 bondsman);

6 “(ii) the amount of coins or currency
7 received;

8 “(iii) the date the coins or currency
9 was received; and

10 “(iv) such other information as the
11 Secretary may prescribe.

12 “(3) SPECIFIED CRIMINAL OFFENSE.—For pur-
13 poses of this subsection, the term ‘specified criminal
14 offense’ means—

15 “(A) any Federal criminal offense involving
16 a controlled substance;

17 “(B) racketeering (as defined in section
18 1951, 1952, or 1955 of title 18, United States
19 Code);

20 “(C) money laundering (as defined in sec-
21 tion 1956 or 1957 of such title); and

22 “(D) any State criminal offense substan-
23 tially similar to an offense described in subpara-
24 graph (A), (B), or (C).

1 “(4) *INFORMATION TO FEDERAL PROSECU-*
2 *TORS.—Each clerk required to include in a report*
3 *under paragraph (1) the information described in*
4 *paragraph (2)(B) with respect to an individual de-*
5 *scribed in paragraph (2)(B)(i)(I) shall furnish (at*
6 *such time as the Secretary may by regulations pre-*
7 *scribe) a written statement showing such information*
8 *to the United States Attorney for the jurisdiction in*
9 *which such individual resides and the jurisdiction in*
10 *which the specified criminal offense occurred.*

11 “(5) *INFORMATION TO PAYORS OF BAIL.—Each*
12 *clerk required to file a report under paragraph (1)*
13 *shall furnish (at such time as the Secretary may by*
14 *regulations prescribe) to each person whose name is*
15 *required to be set forth in such report by reason of*
16 *paragraph (2)(B)(i)(II) a written statement show-*
17 *ing—*

18 “(A) *the name and address of the clerk’s of-*
19 *fice required to file the report; and*

20 “(B) *the aggregate amount of coins and*
21 *currency described in paragraph (1) received by*
22 *such clerk.”.*

23 (b) *PROHIBITION ON STRUCTURING TRANSACTIONS.—*

24 (1) *IN GENERAL.—Section 5324 of title 31,*
25 *United States Code, is amended—*

1 (A) by redesignating subsections (b) and (c)
2 as subsections (c) and (d), respectively; and

3 (B) by inserting after subsection (a) the fol-
4 lowing new subsection:

5 “(b) *DOMESTIC COIN AND CURRENCY TRANSACTIONS*
6 *INVOLVING NONFINANCIAL TRADES OR BUSINESSES.*—No
7 person shall for the purpose of evading the report require-
8 ments of section 5313A or any regulation prescribed under
9 such section—

10 “(1) cause or attempt to cause a nonfinancial
11 trade or business to fail to file a report required
12 under section 5313A or any regulation prescribed
13 under such section;

14 “(2) cause or attempt to cause a nonfinancial
15 trade or business to file a report required under sec-
16 tion 5313A or any regulation prescribed under such
17 section that contains a material omission or
18 misstatement of fact; or

19 “(3) structure or assist in structuring, or at-
20 tempt to structure or assist in structuring, any trans-
21 action with 1 or more nonfinancial trades or busi-
22 nesses.”.

23 (2) *TECHNICAL AND CONFORMING AMEND-*
24 *MENTS.*—

1 (A) *The heading for subsection (a) of section*
2 5324 of title 31, United States Code, is amended
3 by inserting “INVOLVING FINANCIAL INSTITU-
4 TIONS” after “TRANSACTIONS”.

5 (B) *Section 5317(c) of title 31, United*
6 *States Code, is amended by striking “5324(b)”*
7 *and inserting “5324(c)”.*

8 (c) *DEFINITION OF NONFINANCIAL TRADE OR BUSI-*
9 *NESS.—*

10 (1) *IN GENERAL.—Section 5312(a) of title 31,*
11 *United States Code, is amended—*

12 (A) *by redesignating paragraphs (4) and*
13 *(5) as paragraphs (5) and (6), respectively; and*

14 (B) *by inserting after paragraph (3) the fol-*
15 *lowing new paragraph:*

16 “(4) *NONFINANCIAL TRADE OR BUSINESS.—The*
17 *term ‘nonfinancial trade or business’ means any*
18 *trade or business other than a financial institution*
19 *that is subject to the reporting requirements of section*
20 *5313 and regulations prescribed under such section.”.*

21 (2) *TECHNICAL AND CONFORMING AMEND-*
22 *MENTS.—*

23 (A) *Section 5312(a)(3)(C) of title 31,*
24 *United States Code, is amended by striking “sec-*

1 *tion 5316,” and inserting “sections 5313A and*
2 *5316,”.*

3 *(B) Subsections (a) through (f) of section*
4 *5318 of title 31, United States Code, and sections*
5 *5321, 5326, and 5328 of such title are each*
6 *amended—*

7 *(i) by inserting “or nonfinancial trade*
8 *or business” after “financial institution”*
9 *each place such term appears; and*

10 *(ii) by inserting “or nonfinancial*
11 *trades or businesses” after “financial insti-*
12 *tutions” each place such term appears.*

13 *(C) Section 981(a)(1)(A) of title 18, United*
14 *States Code, is amended by striking “5313(a) or*
15 *5324(a) of title 31,” and inserting “5313(a) or*
16 *5313A of title 31, or subsection (a) or (b) of sec-*
17 *tion 5324 of such title,”.*

18 *(D) Section 982(a)(1) of title 18, United*
19 *States Code, is amended by inserting “5313A,”*
20 *after “5313(a),”.*

21 *(d) REPEAL OF DUPLICATE PROVISION.—Section*
22 *6050I of the Internal Revenue Code of 1986 is repealed.*

23 *(e) CLERICAL AMENDMENTS.—*

24 *(1) TITLE 31.—The tables of sections for chapter*
25 *53 of title 31, United States Code, is amended by in-*

1 serting after the item relating to section 5313 the fol-
2 lowing new item:

 “5313A. Reports relating to coins and currency received in nonfinancial trade or
 business.”.

3 (2) *INTERNAL REVENUE CODE OF 1986.*—

4 (A) *The table of sections for subpart B of*
5 *part III of subchapter A of chapter 61 of the In-*
6 *ternal Revenue Code of 1986 is amended by*
7 *striking the item relating to section 6050I.*

8 (B)(i) *Subsection (l) of section 6103 of such*
9 *Code is amended by striking paragraph (15).*

10 (ii) *Subparagraph (A) of section 6103(p)(3)*
11 *of such Code is amended by striking “(15),”.*

12 (iii) *Paragraph (4) of section 6103(p) of*
13 *such Code is amended by striking in the mate-*
14 *rial preceding subparagraph (A) “(12)” and all*
15 *that follows through “(16)” and inserting “(12),*
16 *or (16)”.*

17 (iv) *Clause (ii) of section 6103(p)(4)(F) of*
18 *such Code is amended by striking “(14), or (15)”*
19 *and inserting “or (14)”.*

20 (C) *Paragraph (2) of section 6721(e) of such*
21 *Code is amended—*

22 (i) *in subparagraph (A) by striking*
23 *“6050I,” and by adding “or” at the end,*

1 (ii) by striking “or” at the end of sub-
2 paragraph (B) and inserting “and”, and
3 (iii) by striking subparagraph (C).

4 (D) Subparagraph (B) of section 6724(d)(1)
5 of such Code is amended by striking clause (iv)
6 and by redesignating the succeeding clauses ac-
7 cordingly.

8 (E) Paragraph (2) of section 6724(d) of
9 such Code is amended by striking subparagraph
10 (K) and by redesignating the succeeding sub-
11 paragraphs accordingly.

12 (F) Section 7203 of such Code is amended
13 by striking the last sentence.

14 (f) *REGULATIONS; EFFECTIVE DATE.*—

15 (1) *REGULATIONS.*—Regulations which the Sec-
16 retary of the Treasury determines are necessary to
17 implement this section shall be published in final
18 form before the end of the 6-month period beginning
19 on the date of the enactment of this Act.

20 (2) *EFFECTIVE DATE.*—The amendments made
21 by this section shall take effect at the end of the 6-
22 month period beginning on the date the regulations
23 referred to in paragraph (1) are published in final
24 form in the Federal Register.

1 **SEC. 9. PROMULGATION OF “KNOW YOUR CUSTOMER” REG-**
2 **ULATIONS.**

3 *Within 120 days after the date of the enactment of this*
4 *Act, the Secretary of the Treasury shall promulgate “Know*
5 *Your Customer” regulations for financial institutions. This*
6 *section shall not be construed as precluding any supervisory*
7 *agency for any financial institution from requiring the fi-*
8 *nancial institution to submit any information or report to*
9 *the agency or another agency pursuant to any other appli-*
10 *cable provision of law.*

11 **SEC. 10. FUNGIBLE PROPERTY IN BANK ACCOUNTS.**

12 *Section 984 of title 18, United States Code, is amend-*
13 *ed—*

14 *(1) so that subsection (a) reads as follows:*

15 *“(a) This section applies only if the action for forfeit-*
16 *ure was commenced by a seizure or an arrest in rem not*
17 *later than 2 years after the offense that is the basis for the*
18 *forfeiture.”;*

19 *(2) by striking subsection (c);*

20 *(3) by redesignating subsection (d) as subsection*
21 *(c), and in such subsection—*

22 *(A) by striking “(1)” and all that follows*
23 *through the end of paragraph (1) and inserting*
24 *the following:*

25 *“(1) Subsection (b) does not apply to an action against*
26 *funds held by a financial institution in an interbank ac-*

1 *count unless the account holder knowingly engaged in the*
2 *offense that is the basis for the forfeiture.”; and*

3 *(B) by adding at the end the following new*
4 *paragraph:*

5 *“(3) As used in this subsection, a ‘financial institu-*
6 *tion’ includes a foreign bank, as defined in paragraph (7)*
7 *of section 1(b) of the International Banking Act of 1978.”;*
8 *and*

9 *(4) by adding at the end the following new sub-*
10 *section:*

11 *“(d) Nothing in this section is intended to limit the*
12 *ability of the Government to obtain the forfeiture of prop-*
13 *erty under any statute where the property involved in the*
14 *offense giving rise to the forfeiture or property traceable*
15 *thereto is available for forfeiture.”.*

16 ***SEC. 11. REPORT ON PRIVATE BANKING ACTIVITIES.***

17 *(a) IN GENERAL.—Within 1 year after the date of the*
18 *enactment of this Act, the Secretary of the Treasury, in con-*
19 *sultation with Federal banking agencies, shall submit to the*
20 *Committee on Banking and Financial Services of the House*
21 *of Representatives and the Committee on Banking, Hous-*
22 *ing, and Urban Affairs of the Senate a report on—*

23 *(1) the nature and extent of private banking ac-*
24 *tivities in the United States;*

1 (2) *regulatory efforts to monitor such activities*
2 *and ensure that such activities are conducted in com-*
3 *pliance with the Bank Secrecy Act; and*

4 (3) *policies and procedures of depository institu-*
5 *tions that are designed to ensure that such activities*
6 *are conducted in compliance with the Bank Secrecy*
7 *Act.*

8 (b) *PRIVATE BANKING ACTIVITIES.*—*In subsection (a),*
9 *the term “private banking activities”, with respect to an*
10 *institution, includes, among other things, personalized serv-*
11 *ices such as money management, financial advice, and in-*
12 *vestment services that are provided to clients with high net*
13 *worth and that are not provided generally to all clients of*
14 *the institution.*

15 **SEC. 12. AVAILABILITY OF CERTAIN ACCOUNT INFORMA-**
16 **TION.**

17 *Section 5318(h) of title 31, United States Code, is*
18 *amended by adding at the end the following new paragraph:*

19 “(3) *AVAILABILITY OF CERTAIN ACCOUNT INFOR-*
20 *MATION.*—*The Secretary of the Treasury shall pre-*
21 *scribe regulations under this subsection which require*
22 *financial institutions to maintain all accounts in*
23 *such a way as to ensure that the name of an account*
24 *holder and the number of the account are associated*
25 *with all account activity of the account holder, and*

1 to ensure that all such information is available for
2 purposes of account supervision and law enforce-
3 ment.”.

4 **SEC. 13. SENSE OF THE CONGRESS.**

5 It is the sense of the Congress that the Secretary of
6 the Treasury should make available to all Federal, State,
7 and local law enforcement agencies and financial regu-
8 latory agencies the full contents of the data base of reports
9 that have been filed pursuant to subchapter II of chapter
10 53 of title 31, United States Code.

11 **SEC. 14. DESIGNATION OF FOREIGN HIGH INTENSITY**
12 **MONEY LAUNDERING AREAS.**

13 (a) *IN GENERAL.*—Subchapter II of chapter 53 of title
14 31, United States Code, is amended by inserting after sec-
15 tion 5326 the following new section:

16 **“§5327. Designation of foreign high intensity money**
17 **laundering areas**

18 “(a) *CRITERIA.*—The Secretary of the Treasury, in
19 consultation with appropriate Federal law enforcement
20 agencies, shall develop criteria by which to identify areas
21 outside the United States in which money laundering ac-
22 tivities are concentrated.

23 “(b) *DESIGNATION.*—The Secretary of the Treasury
24 shall designate as a foreign high intensity money launder-
25 ing area any foreign country in which there is an area

1 *which is identified, using the criteria developed under sub-*
2 *section (a), as an area in which money laundering activi-*
3 *ties are concentrated.*

4 “(c) NOTICE.—On the designation under subsection (b)
5 of a country as a foreign high intensity money laundering
6 area, the Secretary of the Treasury shall provide written
7 notice to each insured depository institution (as defined in
8 section 3(c)(2) of the Federal Deposit Insurance Act) and
9 each depository institution holding company (as defined in
10 section 3(w)(1) of such Act) that has control over an insured
11 depository institution of the identity of the foreign country
12 and include with the notice a written warning that there
13 is a concentration of money laundering activities in the for-
14 eign country.”.

15 (b) CLERICAL AMENDMENT.—The table of sections for
16 such chapter is amended by inserting after the item relating
17 to section 5326 the following new item:

“5327. Designation of foreign high intensity money laundering areas.”.

18 **SEC. 15. DOUBLING OF CRIMINAL PENALTIES FOR VIOLA-**
19 **TIONS OF LAWS AIMED AT PREVENTING**
20 **MONEY LAUNDERING IN FOREIGN HIGH IN-**
21 **TENSITY MONEY LAUNDERING AREAS.**

22 Section 5322 of title 31, United States Code, is amend-
23 ed by adding at the end the following new subsection:

24 “(d) The court may double the sentence of fine or im-
25 prisonment, or both, that would otherwise be imposed on

1 *a person for a violation described in subsection (a) or (b)*
2 *if person commits the violation with respect to a trans-*
3 *action involving a person in, a relationship maintained for*
4 *a person in, or a transport of a monetary instrument in-*
5 *volving a foreign country, knowing that the foreign country*
6 *is designated under section 5327(b) as a foreign high inten-*
7 *sity money laundering area.”.*